

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4341 of 1997

to

FIRST APPEAL No 4344 of 1997

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE C.K.BUCH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----

EXECUTIVE ENGINEER

Versus

VASKURBHAI VIKRAMBHAI

-----

Appearance:

MS HARSHA DEVANI, AGP for appellants

MR PM BHATT for Respondents

-----

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 01/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. Heard the learned counsel for the respective parties. Appeals admitted. Mr. P.M. Bhatt waives service for the respondents-original claimants.

2. At the joint request of learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. These are appeals preferred by the State of Gujarat under section 54 of the Land Acquisition Act read with section 96, CPC, wherein the State has challenged the common judgement and awards passed by the Reference Court under section 18 of the said Act.

4. As a result of the hearing and discussion we find that there is no substantial contention taken by the appellant-State on principle which would justify interference by this court with the impugned awards.

5. The substantive evidence led by the claimants before the Reference Court consisted of establishing by appropriate evidence on record the agricultural yield of different crops from the lands under acquisition. This evidence has been very fairly dealt with by the Reference Court and we are not inclined to interfere with the basic figure arrived at by the Reference Court in respect of the yield and the value of the yield as found to have been established on record.

6. The Reference Court has found that if bajri is considered as a crop, the yield would be 20 mounds per vigha, and looking to the market value of Bajri, the annual yield in terms of rupees would be Rs.1200/- and deducting the inputs by way of seed, fertilisers, etc., the net profit would be Rs.600/- per annum. Applying a multiplier of 10, the net value of the land would be Rs.6000/- per vigha.

7. However, if the crop planted was groundnut and a similar line of reasoning based upon the facts established on record is applied, the valuation of the land would come to Rs.7500/- per vigha. The Reference Court has chosen a figure in between the two figures and has arrived at a market value of Rs.6600/- per vigha, without resorting to a mathematical average between the two figures, probably because it would be imponderable as to whether in a given year bajri would sown or groundnut. In this context we find that there is nothing objectionable in the Reference Court not adopting a mathematical mean between the two figures. We, therefore, uphold the valuation of the land at

Rs.6600/per vigha.

8. It, however, appears that another contention raised by learned counsel for the appellant requires to be upheld inasmuch as there is a mathematical and/or ministerial error in converting the land value from vigha into Ares. Even if we accept the conversion figure adopted by the Reference Court (16 Ares equal to one vigha), the market value of the land would then be Rs.412.50 per Are and not Rs.440/- as found by the Reference Court. On the other hand, if we take the conversion figure, which is more accurate, at 16.18 Ares per vigha, the market value of the land would come to Rs.407.91ps. per Are.

9. On the facts and circumstances of the case we find that it would both be practical and also equitable to round off both the figures by the figure in between viz. at Rs.410/- per Are. Accordingly we determine the market value of the acquired lands at Rs.410/- per Are.

10. No other contention has been raised.

11. In the result, therefore, these appeals are partly allowed with no order as to costs. Decree accordingly.

\*\*\*\*\*